

SAMH Staff Privacy Notice

Introduction

Please read this privacy notice carefully as it contains important information about who we are; how and why we are collecting, storing, using and sharing (known as 'processing') your personal data in the course of your employment or application for employment; your rights and how to contact us if you have concerns about how we are processing your personal data.

SAMH is a registered charity; company limited by guarantee and is registered with the Information Commissioner's Office. We have been providing services and working to support people with their mental health and wellbeing since 1923.

We want you to be confident about how your information will be looked after and used. Our Data Protection Policy is available in our policy library on Learnpro and Privacy Policy for interactions with you other than as our employee is available on our website www.samh.org.uk/information/privacy-cookies.

This Staff Privacy Notice describes **how we collect and process personal information about candidates and employees** before, during and after your working relationship with us, in accordance with the UK General Data Protection Regulation (UK GDPR) and Data Protection Act 2018 (DPA 2018) (hereinafter collectively referred to as the 'data protection legislation').

It applies to all current and former candidates, employees, workers and contractors.

This notice does not form part of any contract of employment or other contract to provide services and we may update or amend it at any time.

Data protection principles

We will comply with data protection legislation which states that the personal information we hold about you must be:

1. Used lawfully, fairly and in a transparent way.
2. Collected only for legitimate and specific purposes that we have clearly explained to you, and not used in any way that is incompatible with those purposes.
3. Relevant to the purposes we have told you about and limited to what is necessary in relation to those purposes.
4. Accurate and kept up to date.
5. Kept only as long as necessary for the purposes we have told you about.

6. Kept securely and appropriately protected against unauthorised or unlawful processing.

Types of Personal Data

Personal data, or personal information, means any information about an individual from which that person can be identified either directly or in combination with other information. It does not include data where the identity has been removed (anonymous data).

There are certain types of more sensitive personal data which require a higher level of protection, such as information about a person's health or sexual orientation. Information about criminal convictions also warrants this higher level of protection.

We will collect and process the following categories of personal data about you, where this has been supplied:

- Personal identifiers and contact details such as name, title, addresses, telephone numbers, and email addresses.
- Personal details including date of birth, national insurance number, gender, bank details, driving details (where driving is required for the role).
- Next of kin and emergency contact information.
- Employment details including start date, leaving date/reason, location of employment, job history, working hours, training records, salary details including payments and deductions, leave details, and company benefit details including pensions and insurance.
- Recruitment information, including copies of right to work in the UK documentation, references and other information included in an application form or CV as part of the application process (which may include, but is not limited to, scans/photographs of passport, driving licence, utility bills or other personal letters).
- Performance, disciplinary and grievance information.
- Photographs.
- Information about your use of information and communications systems/equipment.

We may also collect, store and use the following more sensitive types of personal information:

- Diversity monitoring information including nationality, ethnicity, disability, sexual orientation, religion and gender (optional).
- Trade union membership (if you choose to pay fees through payroll).
- Information about your health, including a medical condition, disability, health and sickness records.
- Information about criminal convictions and offences.

Collecting your personal information

SAMH will collect and process information in line with current data protection legislation to assess your suitability for a role you have applied for, and to process your employment with SAMH. The

information will be collected either directly from you or sometimes from an employment agency or former employers.

We will collect additional personal information in the course of job-related activities throughout the period of your employment.

Information you provide to us will be securely stored in both physical and electronic formats and will not be processed outside the UK.

Processing your personal data

We will only process your personal information in line with data protection legislation. Most commonly, we will use your personal information in the following circumstances:

1. Where we need to perform the contract we have entered into with you, i.e. facilitating your employment with SAMH.
2. Where we need to comply with a legal obligation.
3. Where it is necessary for legitimate interests pursued by us or a third party and your interests and fundamental rights do not override those interests.

We may also process your personal information in the following situations, which are likely to be rare:

1. Where we need to protect your vital interests (or someone else's vital interests).
2. Where it is needed in the public interest or for official purposes.

We need all the types of personal data listed above primarily to allow us to perform our contract with you and to enable us to comply with legal obligations. In some cases we may use your personal information to pursue legitimate interests of our own or those of third parties, provided your interests and fundamental rights do not override those interests. The legitimate interests which we pursue are the proper management of the employment relationship, including: general employee management, development and planning; managing performance and disciplinary issues; dealing with employment issues; providing a safe working environment; and monitoring compliance with our policies and procedures or legislation.

Examples of times SAMH require to use your personal data are:

- Making a decision about your recruitment, employment and terms of employment with SAMH.
- We are required by law to verify the identity of staff, to check their right to work in the UK, and to retain evidence of these identity checks.
- Undertake a pre-employment, or whilst in employment, health check with a third party occupational health provider to establish your fitness to work, support requirements and any reasonable adjustments.
- Supporting you during a period of absence or ill health while at work.
- Providing benefits, including a life assurance policy with a third party.

- Enrolling you in a pension arrangement in accordance with our statutory automatic enrolment duties, and providing you with the option to opt out or leave the scheme.
- Administering the employment contract we have entered into with you including paying your salary and deducting tax and National Insurance contributions.
- Facilitating your employment with SAMH by meeting regulatory or legal requirements, for example, sharing information you provide with statutory bodies including the Care Inspectorate, Disclosure Scotland, Scottish Social Services Council (SSSC), where this is required for your role.
- Sharing information with HMRC or with the Department of Work and Pensions as required by legislation.
- We may share information with other external partners, including HR consultancy partners to provide HR support or employment lawyers.
- Line managers may collect information relating to performance and wellbeing through the performance and supervision process.
- Line managers or other authorised staff may access your work emails for legitimate and justifiable business purposes, for example during a period of absence or as part of an investigation.
- Where required, gathering evidence for possible grievance, disciplinary hearings, making decisions about your continued employment or making arrangements for the termination of our working relationship.
- Where required, dealing with any legal disputes involving you, or other employees, workers and contractors.
- Any education, training and development requirements.
- Complying with health and safety obligations, including the retention of staff photographs for identification, building access and lone working purposes in the event of an emergency.
- To monitor your use of our information, communication or data storage systems to ensure compliance with our policies.
- To ensure network and information security, including preventing unauthorised access to our computer and electronic communications systems and preventing malicious software distribution.
- For business management, risk management and planning purposes, for example accounting activities, auditing activities or to prevent fraud.
- We may also use your personal data to show anonymous statistics or information, for example:

- Equal opportunities and diversity monitoring, including gender pay gap reporting required by law (anonymous analytics).
- To review and better understand employee retention and attrition rates (anonymous analytics).

Failing to provide personal information

If you fail to provide certain information when requested, we may not be able to perform the contract we have entered into with you (such as paying you or providing a benefit), or we may be prevented from complying with our legal obligations (such as to ensure the health and safety of our workers).

Change of purpose

We will only use your personal information for the purposes for which we collected it, unless we reasonably consider that we need to use it for another reason and that reason is compatible with the original purpose. If we need to use your personal information for an unrelated purpose, we will notify you and we will explain the legal basis which allows us to do so.

Please note that we may process your personal information without your knowledge or consent, in compliance with the above rules, where this is required or permitted by law.

How we use particularly sensitive personal information

"Special categories" of particularly sensitive personal information, such as information about your health, racial or ethnic origin, sexual orientation or trade union membership, require higher levels of protection. We need to have further justification for collecting, storing and using this type of personal information. We have in place an appropriate policy document and safeguards which we are required by law to maintain when processing such data. We may process special categories of personal information in the following circumstances:

1. In limited circumstances, with your explicit written consent.
2. Where we need to carry out our legal obligations or exercise rights in connection with employment.
3. Where it is needed in the public interest, such as for equal opportunities monitoring or in relation to our occupational pension scheme.
4. Where it is necessary to protect you or another person from harm.

Less commonly, we may process this type of information where it is needed in relation to legal claims or where it is needed to protect your interests (or someone else's interests) and you are not capable of giving your consent, or where you have already made the information public.

Situations in which we will use your sensitive personal information

In general, we will not process particularly sensitive personal information about you unless it is necessary for obligations or rights in connection with employment. On rare occasions, there may be

other reasons for processing, such as it is in the public interest to do so. The situations in which we will process your particularly sensitive personal information are listed below:

- We will use information about your health to ensure health and safety in the workplace, to assess your fitness to work, to provide appropriate workplace adjustments, to monitor and manage sickness absence and to administer benefits including statutory maternity/paternity pay and statutory sick pay.
- If we reasonably believe that you or another person are at risk of harm and the processing is necessary to protect you or them from physical, mental or emotional harm or to protect physical, mental or emotional well-being.
- We will use information about your race or national or ethnic origin, religious, philosophical or moral beliefs, or your sexual orientation, to ensure meaningful equal opportunity monitoring and reporting (anonymous and optional).
- We will use trade union membership information to pay trade union premiums (if you have asked for this to be paid via payroll) and to comply with employment law obligations.

Consent

We do not need your consent if we use special categories of personal information in accordance with our Data Protection Policy to carry out our legal obligations or exercise specific rights in the field of employment law.

In limited circumstances, we may approach you for your written consent to allow us to process certain particularly sensitive data, for example to gain consent for an occupational health referral. If we do so, we will provide you with full details of the information that we would like and the reason we need it, so that you can carefully consider whether you wish to consent. You should be aware that it is not a condition of your contract with us that you agree to any request for consent from us.

We do not need your consent where the purpose of the processing is to protect you or another person from harm or to protect your well-being and if we reasonably believe that you need care and support, are at risk of harm or are unable to protect yourself.

Criminal Convictions Data

We will only use information relating to criminal convictions where the law allows us to do so. This will usually be where such processing is necessary to carry out our obligations and provided we do so in line with our Data Protection Policy.

For example, we may collect information about criminal convictions as part of the recruitment process or we may be notified of such information directly by you in the course of your employment.

This is necessary to carry out our obligations to ensure safer recruitment and implement registration with regulatory bodies and to meet their requirements, including the Care Inspectorate, Disclosure Scotland and the Scottish Social Services Council.

We have in place an appropriate policy and safeguards which we are required by law to maintain when processing such data.

Automated Decision Making

We do not envisage that any decisions will be taken about you using automated means, however we will notify you in writing if this position changes.

Sharing your information

SAMH will share your personal information with third parties where required by law, where it is necessary to administer the working relationship with you or where we have another legitimate interest in doing so.

- "Third parties" includes third party service providers or partners. The following activities are carried out by third-party service providers: pension administration, benefits provision (life assurance policy), occupational health advice, legal advice, HR consultancy advice (business contingency arrangement for additional HR support).
- Third party partners also provide SAMH with secure IT systems where your personal data may be stored, including finance, HR, payroll, accidents and incidents, service user and training systems. Access is restricted to the relevant SAMH employees, unless essential system maintenance support is required from third party employees of the system provider.
- All our third party service providers or partners are required to take appropriate security measures to protect your personal information in line with data protection legislation. We do not allow third party service providers or partners to use your personal data for their own purposes.
- SAMH will share relevant information with the Department of Work and Pensions and HMRC where required by law.
- SAMH will share relevant information with regulatory or statutory bodies, where relevant to your role, including the Care Inspectorate, Disclosure Scotland or the Scottish Social Services Council (SSSC).
- We are legally required to share information where we become concerned about a risk of harm to yourself; where we believe there to be an emergency situation and in order to protect your health and safety; where we believe there is a danger to another person; or we are required by law.

Keeping your information safe

SAMH will hold your information in electronic and paper-based file formats. All personal information provided by you will be stored in accordance with the data protection legislation and as outlined in SAMH's Data Protection Policy.

We have put in place procedures to deal with any suspected data security breach and will notify you and any applicable regulator of a data breach where we are legally required to do so.

We will only retain your personal information for as long as necessary to fulfil the purposes we collected it for, including for the purposes of satisfying any legal, accounting, insurance or reporting requirements.

To determine the appropriate retention period for personal data, we consider the amount, nature, and sensitivity of the personal data, the potential risk of harm from unauthorised use or disclosure of your personal data, the purposes for which we process your personal data and whether we can achieve those purposes through other means, as well as the applicable legal requirements.

In some circumstances we may anonymise your personal information so that it can no longer be associated with you, in which case we may use such information without further notice to you.

If your recruitment application is unsuccessful your application form will be held for a period of 6 months following the date of receipt. Thereafter it will be confidentially destroyed unless you have asked for your details to be kept on file for future vacancies. If you are employed by SAMH, we will keep your information for 6 years after you have left employment after which it will be securely destroyed. Please note that there are particular circumstances where we will have to retain your information for a longer period of time, for example to meet our legal requirements or to comply with insurance policy requirements. Please see the SAMH policy and guidance on Records Management and Retention for further details.

We will not share your information for marketing purposes and your information is not transferred or processed outside the UK.

Your duty to inform us of changes

It is important that the personal information we hold about you is accurate and current. Please keep us informed if your personal information changes during your working relationship with us.

Your data protection rights

Your rights under data protection legislation will differ depending on the reason we are collecting and processing your information, and could be subject to specific restrictions that SAMH must adhere to. You are not usually required to pay any charge for exercising your rights. If you make a request, we typically have one month to respond to you.

Your Rights:

1. You have the right to ask for a copy of your personal information. There can be exemptions which means that you may not always receive all the information we process.
2. You have the right to ask for information to be rectified if you believe it is inaccurate and/or is incomplete.
3. You have the right to ask for your information to be erased in certain circumstances.
4. You have the right to ask us to restrict the processing of your personal information in certain circumstances.
5. You have the right to object to processing in certain circumstances.
6. You have the right to ask that we transfer your personal information to another organisation, or to you, in certain circumstances.
7. You have the right to complain (see below).

8. You have the right to object to automated decision-making.

How to ask questions or complain

If you have any questions about this Staff Privacy Notice, please contact dataprotection@samh.org.uk or the Head of Human Resources at emma.cruse@samh.org.uk

If you have any concerns about how we are using your personal information, you can contact your line manager, Data Protection Officer or Human Resources department to discuss the matter. There is a Grievance Policy available to all staff which is accessible on the LearnPro system. You can also contact the ICO if you are unhappy with how we have used your data. The ICO contact details are as follows:

The ICO's address:
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Helpline number: 0303 123 1113

ICO website: <https://www.ico.org.uk>

Changes to this Staff Privacy Notice

We reserve the right to update this privacy notice at any time, and we will notify you of the new privacy notice when we make any substantial updates. We may also notify you in other ways from time to time about the processing of your personal information.